

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

ELIJAH MOORE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 4:13CV01928 AGF
	)	
DAVID SHIPLEY, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This action is before the Court on Plaintiff's motion (Doc. No. 111) for default judgment as to liability against Anthony Wayne Perry, who is one of several Defendants. Plaintiff, a prisoner of the State of Missouri, brought this action<sup>1</sup> seeking declaratory relief, injunctive relief, and damages under 42 U.S.C. § 1983 for violation of his Eighth Amendment rights and for conspiracy to violate those rights. Plaintiff alleges that Defendants, employees of the Missouri Department of Corrections, participated in beating and injuring him in retaliation for a relationship he had with a female staff member. On May 19, 2015, Clerk's Entry of Default was entered as to Perry.

Plaintiff now seeks default judgment as to liability against Perry, in an amount to be determined, as well as the entry of declaratory and injunctive relief against him. The Court will deny without prejudice this motion for default judgment to avoid the possibility of inconsistent results in the case. As the Court explained in denying without prejudice a similar motion with respect to another defaulting Defendant in this case, "[w]hen there are

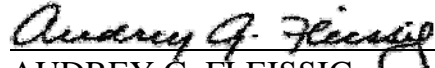
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<sup>1</sup> Plaintiff filed this action pro se, but counsel entered on Plaintiff's behalf on August 1, 2014.

multiple defendants who may be jointly and severally liable for damages alleged by plaintiff, and some but less than all of those defendants default, the better practice is for the district court to stay its determination of damages against the defaulters until plaintiff's claim against the nondefaulters is resolved.” *Pfanenstiel Architects, Inc. v. Chouteau Petroleum Co.*, 978 F.2d 430, 433 (8th Cir. 1992); *Edwards v. Dwyer*, No. 1:06-CV-1 CAS, 2008 WL 222514, at \*1-2 (E.D. Mo. Jan. 25, 2008) (denying motion for default judgment without prejudice as to one defendant in a multiple defendant case, where the claims against similarly situated nondefaulting defendants were not yet resolved).

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff's motion for default judgment as to liability against Defendant Anthony Wayne Perry is **DENIED without prejudice**. (Doc. No. 111.)

  
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AUDREY G. FLEISSIG  
UNITED STATES DISTRICT JUDGE

Dated this 3rd day of June, 2015.